

U.S. Department of Justice  
United States Marshals Service

# PROCESS RECEIPT AND RETURN

PLAINTIFF <u>DARRYI CHERRY</u>		COURT CASE NUMBER <u>C H-04-02926</u>
DEFENDANT <u>WARDEN JAMES F. SHERMAN</u>		TYPE OF PROCESS <u>BIVENS ACTION</u>
SERVE AT	NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC. TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN <u>F C I MCKEAN</u>	
	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <u>P.O. Box 5000 Bradford P.A. 16701</u>	
SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW		

DARRYI CHERRY 07928078  
ACI MCKEAN  
P.O. Box 8000  
Bradford P.A. 16701

Number of process to be served with this Form 285	<u>8</u>
Number of parties to be served in this case	<u>1</u>
Check for service on U.S.A.	<u>X</u>

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

INCARCERATED PRISONER

Signature of Attorney other Originator requesting service on behalf of: <u>Darryl Cherry</u>	<input checked="" type="checkbox"/> PLAINTIFF <input type="checkbox"/> DEFENDANT	TELEPHONE NUMBER	DATE <u>4/2/05</u>
SPACE BELOW FOR USE OF U.S. MARSHAL ONLY- DO NOT WRITE BELOW THIS LINE			

I acknowledge receipt for the total number of process indicated. (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process	District of Origin	District to Serve	Signature of Authorized USMS Deputy or Clerk	Date
		No.	No.		

I hereby certify and return that I ☐ have personally served, ☒ have legal evidence of service, ☐ have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the on the individual, company, corporation, etc. shown at the address inserted below.

☐ I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)	<input type="checkbox"/> A person of suitable age and discretion then residing in defendant's usual place of abode Date <u>7/12/05</u> Time <input type="checkbox"/> am <input type="checkbox"/> pm Signature of U.S. Marshal or Deputy <u>Trish Blewett</u>				
Address (complete only different than shown above)					
Service Fee <u>Joe</u>	Total Mileage Charges including endeavors	Forwarding Fee	Total Charges <u>Joe</u>	Advance Deposits	Amount owed to U.S. Marshal* or (Amount of Refund*)

REMARKS:

6/20/05

**PRINT 5 COPIES:**

1. CLERK OF THE COURT
2. USMS RECORD
3. NOTICE OF SERVICE
4. BILLING STATEMENT\*: To be returned to the U.S. Marshal with payment, if any amount is owed. Please remit promptly payable to U.S. Marshal.
5. ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

## WAIVER OF SERVICE OF SUMMONS

TO: \_\_\_\_\_

(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

I acknowledge receipt of your request that I waive service of a summons in the action of \_\_\_\_\_, which is case number \_\_\_\_\_

(CAPTION OF ACTION)

CH 04-292E

(DOCKET NUMBER)

in the United States District Court for the

District of \_\_\_\_\_

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the Court except for objections base on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after JUN 22 2005 or within 90 days after that date if the request was sent outside the United States.  
(Date Request Was Made)

7/12/05  
(DATE)

Print/Typed Name

James F. Sherman

As WARDEN

(Title)

of

FCF McKean

(Corporate Defendant)

### Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the Court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

04-0292

SHERMAN